

REPORT

Of the Committee on so much of the President's Message as relates to the Militia.

JANUARY 9, 1818.

Accompanied with a Bill to provide for organizing, arming, and disciplining the Militia, &c. &c.

The committee to whom was referred so much of the message of the President as relates to the militia, have had that subject under consideration, and beg leave to

REPORT:

That the constitution grants to Congress the following powers in relation to the militia, to wit: To provide for organizing the militia; for arming them; for disciplining them; for calling them into the service of the United States; for governing them therein; and for compensating them for their services; which powers the committee have considered separately.

1. The committee are of opinion, that in organizing the militia, it would be a great improvement to divide them into two classes, with a view to train diligently, and to provide to arm immediately, the young men, and exempt the elderly men from that sacrifice of time which effective training would require—the organization of the militia might remain in all other respects nearly as heretofore established.

2. The constitution having made it the duty of Congress to provide for arming the militia, this power is not duly exercised by merely enacting that the militia shall arm themselves. A law to that effect, unsanctioned by penalties, will be disregarded, and if thus sanctioned, will be unjust, for it will operate as a capitation tax, which the opulent and the needy will pay equally, and which will not be borne by the states in the proportion fixed by the constitution. The committee do not approve of putting public arms into the hands of the militia, when not necessary. That mode would expose the arms to be lost and destroyed. They conceive that Congress should provide arsenals, from which the militia of every part of the United States could draw arms when necessary, which would be a sufficient exercise of the power to provide for arming the militia.

3. Congress having power to provide for governing the militia only when they are in the service of the United States, and the authority of training them belonging to the state governments, the committee have not deemed it proper that Congress should prescribe the time to be devoted to training, or the manner in which that object will be best effected. It is the duty of the state legislatures to enact the necessary laws for that purpose. The committee deem it a sufficient exercise of the power to provide for disciplining the militia, to direct the appointment of the necessary officers, to prescribe their duties, and to provide a system of discipline, comprehending the camp duties, instruction, field exercise, and field service of the militia.

4. The committee are of opinion, that the regulations for calling forth the militia may remain substantially as at present existing: That the President should, in all cases, address his orders immediately to some officer of the militia, and not to the executive of any state. The governor of a state is not a militia officer, bound to execute the orders of the President; he cannot be tried for disobedience of orders, and punished by the sentence of a court martial.

5. In providing for governing the militia in the service of the United States, it has appeared to your committee, that the senior class might be exempted from being marched out of the state to which they may belong; that the *junior* class, composed of ardent and vigorous men, the efficient force of the nation, should, when called into service, continue therein some time after having acquired the knowledge and habits of soldiers; that the officers should, by their own consent, be continued still longer in service, as military knowledge, principles and habits, are most essential to the officers, who are the souls of an army. It has also appeared to your committee, that those principles would be best acquired by the officers of the militia, in serving with officers of the regular troops on courts martial, for the trial of offenders either of the regular troops or militia.

6. The compensation to the militia for their services, consisting of pay and allowance for clothing, and of pensions in case of disability by wounds received in the service, the committee would allow to remain nearly as heretofore fixed by law.

The committee acting according to the foregoing principles, report a bill to provide for organizing, arming, and disciplining the militia; for calling them into the service of the United States; for governing them therein; and for compensating them for their services.